

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-10991-NG

KENNETH M. WHITE and)
MANDY DIAS)
)
Plaintiff)
)
vs.)
)
ERIC MADONNA and CITY OF)
FALL RIVER,)
)
Defendants)

PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO STAY

Plaintiffs Kenneth M. White and Mandy Dias hereby oppose Defendants' Motion to Stay. In support of this opposition, Plaintiffs state as follows:

1. Defendant Madonna's presence before the Court is necessary only as a fact witness at trial. Hence, Defendants motion is premature because a trial date in this case has not yet been scheduled.
2. Defendant Madonna has been deposed.
3. Defendant Madonna had ample opportunity before his alleged deployment in active military service to respond to Plaintiffs' written discovery served on September 27, 2004. Hence, Madonna's immediate unavailability should have no effect on Plaintiffs' Motion for Sanctions filed on June 6, 2005.
4. An affidavit attesting to Madonna's alleged deployment in active military service was not attached to the copy of the instant motion served on Plaintiffs.

5. Defendant Madonna is fully indemnified by, and shares the same defense as Defendant City of Fall River. Further, Corporation Counsel of the City of Fall River represents Defendant Madonna. Hence, Defendant Madonna's legal interests are adequately represented and unaffected by his alleged deployment in active military service.

6. Defendant Madonna's alleged deployment in active military service should have no effect on Plaintiffs' deposition of the City of Fall River, properly noticed pursuant to Fed.R.Civ.Pr. 30(b)(6), currently scheduled to occur on June 17, 2005.

WHEREFORE, Plaintiffs Kenneth M. White and Mandy Dias respectfully request that Defendants' Motion to Stay be DENIED.

Respectfully Submitted,
Plaintiff Kenneth White,
By His Attorneys,

/s/ James Hodgson
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Plaintiff Mandy Dias,
By Her Attorney,

/s/ Brian Corey, Jr.
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Date: June 10, 2005